

Application Serial No. 09/898,295

REMARKS

In response to the Office Action mailed June 28, 2005, Applicants amend the claims and request consideration of the remarks that follow. In this response, Applicants amend claim 13 and add new claim 16. Applicants do not cancel any claims. Accordingly, claims 13-16 are pending in this Application.

A. Claim Rejections — 35 U.S.C. § 102

The Examiner rejects claim 13 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,337,348 issued to Yamazaki et al. ("*Yamazaki*"). Applicants amend claim 13.

To anticipate a claim, the cited reference must teach every element of the rejected claim. Among other elements, claim 13 defines a method of synchronizing the digital transmission of analog signals comprising "receiving, at a second modem, a first digital data signal from a first modem via a transmission medium." Applicants submit *Yamazaki* fails to disclose at least these elements of claim 13.

In making the rejection, the Examiner characterizes *Yamazaki* as showing all of the elements of claim 13. However, as amended, claim 13 recites synchronizing the digital transmission of analog signals between a first modem and a second modem. By contrast, *Yamazaki* discloses "a modem pooling system for pooling a modem so that the modem is usable in common for a plurality of data terminals..." (*Yamazaki*, Col. 1, lines 7-9). As such, Applicants submit that *Yamazaki* discloses a system utilizing a common modem for use between a plurality of data terminals. In other words, there is only discussion of only one modem in *Yamazaki*. Therefore, *Yamazaki* cannot disclose at least synchronizing the digital transmission of analog signals between a first modem and a second modem as recited in claim 13.

Application Serial No. 09/898,295

The failure of *Yamazaki* to disclose all of the elements of claim 13 is fatal to the anticipation rejection. Therefore, claim 13 is not anticipated by *Yamazaki*. Accordingly, Applicants respectfully request withdrawal of the rejection of claim 13.

B. Claim Rejections -- 35 U.S.C. § 103

The Examiner rejects claims 14 and 15 under 35 U.S.C. § 103(a) as being anticipated by *Yamazaki* in view of U.S. Patent No. 6,320,941 issued to Tyroler ("*Tyroler*"). Applicants amend claim 13.

To render a claim obvious, the cited references must teach or suggest every element of the rejected claim. Claims 14 and 15, because of their dependency on claim 13, each define a method of synchronizing the digital transmission of analog signals comprising "receiving, at a second modem, a first digital data signal from a first modem via a transmission medium." Applicants have addressed the failure of *Yamazaki* to disclose at least these elements of claim 13, and submit the discussion above is equally applicable to an obviousness rejection. Therefore, *Yamazaki* fails to teach or suggest all of the elements of claims 14 and 15. The Examiner relies on *Tyroler* to cure the defects of *Yamazaki*, however, Applicants submit *Tyroler* fails to cure such defects.

In making the rejection, the Examiner characterizes *Tyroler* as, *inter alia*, disclosing an RF channel and an A/C power line channel. The Examiner does not cite *Tyroler* as disclosing synchronizing the digital transmission of analog signals between a first modem and a second modem. Furthermore, in reviewing *Tyroler* in its entirety, Applicants are unable to discern any sections disclosing such. Therefore, *Tyroler* fails to cure the defects of *Yamazaki*. Thus, the

Application Serial No. 09/898,295

combination of *Yamazaki* and *Tyroler* fails to teach or suggest every element of claims 14 and 15.

The failure of *Yamazaki* and *Tyroler* to disclose all of the elements of claims 14 and 15 is fatal to the obviousness rejection. Therefore, claims 14 and 15 are not obvious over *Yamazaki*. In view of *Tyroler*. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 14 and 15.

III. New Claim

Applicants add new claim 16, which depends from claim 13 and includes all of the elements thereof. Therefore, Applicants submit claim 16 is in condition for allowance at least for the same reasons as claim 13, in addition to its own features.

Application Serial No. 09/898,295

CONCLUSION

In view of the foregoing, it is believed that all claims now pending are in condition for allowance. A Notice of Allowance is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned.

If necessary, the Commissioner is hereby authorized to charge payment or credit any overpayment to Deposit Account No. 1928-14 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

Date: _____

12/27/05

By: _____

Jason R. Graff
Reg. No. 54,134

SNELL & WILMER, L.L.P.
One Arizona Center
400 East Van Buren
Phoenix, Arizona 85004-2202
(602) 382-6389